

{PRIVATE }

**DIRECT TESTIMONY**  
**[Corrected]**

**ROY A. KING**

**WATER DEPARTMENT**

**FINANCIAL ANALYSIS DIVISION**  
**ILLINOIS COMMERCE COMMISSION**

**NORTHERN ILLINOIS UTILITIES, INC.**

**Docket No. 01-0491**

**September 2001**

1     **Q.     Please state your name and business address.**

2     A.     My name is Roy A. King. My business address is 527 East Capitol Avenue, P.  
3           O. Box 19280, Springfield, Illinois 62794-9280.

4  
5     **Q.     By whom are you employed and in what capacity?**

6     A.     I am employed by the Illinois Commerce Commission (Commission) as an  
7           Economic Analyst in the Water Department of the Financial Analysis Division  
8           (FAD).

9  
10    **Q.     How long have you been employed by the Commission?**

11   A.     Since August of 1979.

12  
13    **Q.     Will you please briefly state your qualifications?**

14   A.     I graduated from Chicago Technical College in 1970 with a Bachelor of Science  
15           degree in Architectural Engineering.

16  
17           From 1970 to May 1979, I served with the U.S. Navy. My assignments included  
18           those of Maintenance Supervisor, Instructor, and Counselor for a Drug and  
19           Alcohol Program, and managing a division of 30 men and its related equipment.  
20           Since August 1979, I have been employed by the Commission. Until mid-1982, I

**Docket No. 01-0491**  
**ICC Staff Exhibit 1.0**

1 was assigned to the Public Utilities Division, Engineering Department, Gas and  
2 Electric Section as a Utility Engineer. My duties were to assist the Chief Gas  
3 Engineer and the Chief Engineer in the administration of all engineering matters  
4 associated with the regulation of privately owned gas and electric utilities in the  
5 State of Illinois. During this period, my duties included (1) evaluating rate filings  
6 and rules and regulations filings, (2) assisting the Consumer Services Division,  
7 upon request, in handling investigations and correspondence relating to electric  
8 and gas inquiries and complaints, (3) evaluating testimony presented by the  
9 utilities and conducting cross-examination, (4) testifying on behalf of Staff in  
10 applications for Certificates of Convenience and Necessity (Certificates), rate  
11 proceedings and other formal cases which contain issues requiring review by the  
12 Engineering Department, and (5) processing other work as directed by the Chief  
13 Engineer.

14  
15 In 1982, Staff functions were reorganized and I was assigned to the Water and  
16 Sewer Section within the Engineering Department. My duties were very similar  
17 to those previously described, except that I worked on matters associated with  
18 water and sewer utilities.

**Docket No. 01-0491**  
**ICC Staff Exhibit 1.0**

1 In November of 1992, engineering and rate matters for water and sewer utilities  
2 were transferred to the Office of Policy and Planning (OPP) and I was assigned  
3 to OPP. My duties include (1) evaluating rate schedule filings, and rules and  
4 regulations filings, (2) assisting the Consumer Services Division, upon request, in  
5 handling inquiries and complaints, (3) evaluating testimony presented by the  
6 utilities and conducting cross-examination, (4) testifying on behalf of Staff in  
7 applications for Certificates, rate proceedings, and other formal cases which  
8 contain issues requiring review by OPP, and (5) reviewing cost-of-service studies  
9 for the water and sewer utilities when so assigned.

10  
11 In 1997, Staff's functions were reorganized and I was assigned to the Rates  
12 Department within FAD (formerly Public Utilities Division). In 2000, Staff's  
13 functions were reorganized forming a Water Department and I was assigned to  
14 the Water Department. My duties are the same as those previously described.

15  
16 Since being employed by the Commission, I have received an Associates Degree  
17 in Business Administration from Lincoln Land Community College, Springfield,  
18 Illinois, and in 1985, I received a Bachelor of Arts Degree in Management from  
19 the University of Illinois, Springfield (formerly Sangamon State University),  
20 Springfield, Illinois.

1  
2 In addition, I have attended a number of courses regarding utility regulation,  
3 including several sponsored by the National Association of Regulatory Utility  
4 Commissioners (NARUC). I completed a one-week utility rate seminar co-  
5 sponsored by the NARUC Water Committee and the University of Utah Center  
6 for Continuing Education. I have also completed a course in Sewage Treatment  
7 Plant Operations, which was sponsored by the Environmental Training Resource  
8 Center at Southern Illinois University, and three courses in depreciation practices  
9 that were sponsored by Depreciation Programs, Inc.  
10

11 **Q. Are you a member of any professional organizations?**

12 A. Yes, I am a member of the Illinois Potable Water Operator's Association, Illinois  
13 Section of the American Water Works Association and American Water Works  
14 Association.  
15

16 **Q. What is your assignment in this case?**

17 A. I was assigned by the Manager of the Water Department to examine Northern  
18 Illinois Utilities, Inc. 's (NIUI, Northern or Company) operations for compliance  
19 with the Order entered in Docket No. 97-0608. This Order described certain  
20 requirements to be completed on the facilities and records to be maintained to

1 comply with the Public Utilities Act (PUA) and the Illinois Commerce  
2 Commission's Administrative Codes. Specifically, my responsibilities include  
3 presenting testimony regarding NIUI's compliance with the Order in the Docket  
4 No. 97-0608.

5  
6 **Q. Could you briefly describe NIUI's service area and the water facilities**  
7 **utilized to serve the area?**

8 A. The Company is currently providing water service to approximately 350  
9 residential customers in Wooded Shores, Oakwood Shores, St. Francis Heights,  
10 Parkers Highland Subdivision and, Spring Creek Subdivision, which are  
11 contiguous to Wonder Lake in McHenry County, Illinois. NIUI is one of five  
12 utilities in McHenry County owned by T. P. Mathews. The other affiliated utilities  
13 are:

14 Highland Shores Water Company;  
15 Crystal Clear Water Company;  
16 McHenry Shores Water Company; and  
17 Wonder Lake Water Company.  
18

19 NIUI received its initial Certificate of Public Convenience and Necessity on  
20 February 26, 1953, in Docket No. 40707.

21  
22 The water distribution system for NIUI consists of one well, one 75,000 gallon

1 elevated storage tank, approximately 34,000 feet of two through eight inch  
2 diameter mains, approximately 342 services, unknown number of meters, and  
3 twenty eight (28) hydrants.  
4

5 **Q. Could you describe the events that occurred leading to the Commission**  
6 **entering the Order in Docket No. 97-0608?**

7 A. Yes. On January 10, 1997, Mr. Thomas P. Mathews, owner and operator of NIUI,  
8 filed for an increase in revenues under the Commission's simplified rate case  
9 procedures. In response to NIUI's notification to the customers about the rate  
10 increase, the Consumer Services Division (CSD) began receiving letters and  
11 phone calls from the customers. As a result of those responses filed by the  
12 customers, a public meeting was held on March 19, 1997.  
13

14 The purpose of the public meeting was to allow customers the opportunity to  
15 voice any concerns about issues regarding the Company. Mr. Mathews,  
16 President, and Mr. Jeff Klaus, Vice President, represented NIUI at the public  
17 meeting. Representatives from the Illinois Environmental Protection Agency  
18 (IEPA) were present and also answered questions. Approximately 45 customers  
19 served by NIUI attended. The customers voiced anger and frustration about the  
20 quality of water, Company management, service, and the lack of concern and

action by the Commission and IEPA.

As a result of the public meeting, the Commission initiated a Citation proceeding, Docket No. 97-0608, which terminated the simplified rate case procedure and commenced an investigation into its rates and non-compliance to the Commission's rules and regulations. In June 1999, the Commission entered an Order in Docket No. 97-0608, granting NIUI an increase in revenues and requiring NIUI to make improvements to the facilities and records.

**Q. Can you describe the requirements set forth in the Order in Docket No. 97-0608 and the time schedule that the Company was to complete upgrading the facilities and records to comply with the Public Utilities Act (PUA) and, the Illinois Commerce Commission's Administrative Codes.**

**A.** The following summary set forth the actions to be taken and the deadline to be completed. Note: All deadlines extend from the date of the Order (June 16, 1999).

	Requirement	Deadline	Completion
1.	Completion of 2 <sup>nd</sup> well;	6 months	Not completed
2.	Establish a meter testing program on meters that are 10 yrs. or older;	120 days	Not completed
3.	Participate in State-Wide One Call	1 year	Yes

**Docket No. 01-0491**  
**ICC Staff Exhibit 1.0**

	Notice (JULIE);		
4.	Installation of meters to all customers;	1 year	Not Completed
5.	Quarterly reports indicating location of installed meters and remotes and documenting quantity of customer refunds;	Quarterly	Not Completed
6.	Replace or repair 4 hydrants and correct the discrepancies on Schedule 3.03 (a) and (b);	1 year	Not completed
7.	Independent iron study investigating alternative water source or iron removal;	120 days	Completed 12/99 Revised 2/2000
8.	Poll customers for 3 choices: Existing water source non changes, New water source, or existing water source with treatment;	120 days	Not completed
9.	Install valve box for Mr. Richard Hilton;	1 year	Installed in Original well site
10.	Replace 1,770 ft/yr. Of 2" dia. main for five (5) years;	Annual	Not started - behind 1 yr
11.	Install hydrants or flushing hydrants on uncapped mains;	90 days	Completed
12.	Establish 8" future main program;	--	No mains installed.
13.	Install alternative source of power for wellhouse;	6 months	Not completed
	Moisture proof electrical receptacles;	6 months	Completed
	Paint 75,000 gallon elevated storage tank;	6 months	Not completed
	Install shatter proof covering over lights, and;	6 months	Completed
	Install pressure recorder; and	6 months	Completed
14.	Establish and maintain continuing property ledger.	6 months	Not completed

1  
2 **Q. Has NIUI installed a second well in NIUI's service area to comply with the**  
3 **requirements in 83 Ill. Adm. Code 600.230(a) and the Order in Docket No.**  
4 **97-0608?**

5 A. No. In NIUI's initial report of September 15, 1999, they indicated "the Company  
6 is investigating a location for a new well and seeking bids for a well, pumping  
7 equipment, electrical equipment and the necessity for enlarging the pump  
8 house." Other than the information provided in 1999, it appears that there were  
9 no further steps taken to add the second well. The Company's filing for a rate  
10 increase, under the Simplified Rate Procedures, further illustrated this. The filing  
11 did not include any contracts showing that a bid had been granted for the well,  
12 equipment and pump house. Further, in my opinion, based on my experience  
13 with the Commission, it would also require NIUI to seek approval from the  
14 Commission for borrowing funds to pay for the new well. I am not aware of any  
15 petition filed by NIUI for approval of loans.

16  
17 **Q. Have you reviewed the Company's procedures for testing customer's**  
18 **meters?**

19 A. 83 Ill Adm. Code Part 600.300 and the Order in Docket No. 97-0608, requires  
20 that 5/8" meters be tested on a 10-year cycle. During my inspection of the

1 facilities, I did not see a meter testing bench or any evidence that the Company  
2 plans to establish a program to test meters on a regular basis or by any outside  
3 sources. The Company reported in their September 1999 initial report that they  
4 had arranged to have meters tested by an outside source when the customers  
5 request that their meters be tested. The Company did not provided any support  
6 in their May 15, 2001 filing for a rate increase under the Simplified Rate  
7 Procedures, that they have contracted any outside source for testing of meters.  
8

9 **Q. In your opinion, has NIUI instituted a meter replacement program or an**  
10 **installation program?**

11 A. No. In NIUI's initial report of September 15, 1999, they indicated that the  
12 Company plans to replace all meters over ten years old during the years 1999  
13 and 2000. Based on my discussion with Company personnel, it appears that no  
14 program is in place to replace the meters in NIUI's water system. The  
15 Company's filing for a rate increase, under the Simplified Rate Procedures,  
16 further illustrated this. The filing did not include any contracts showing the  
17 purchase of a large quantity of meters and their associated outside registers.  
18

19 **Q. The Order in Docket No. 97-0608 requires NIUI to provide quarterly reports**  
20 **to Staff regarding installation of meters and remote registers and the**

1        **amount of refunds with interest made to customers. Based on your**  
2        **investigation, has NIUI made those reports available to Staff according to**  
3        **the Order in Docket No. 97-0608?**

4        A.     No. NIUI made an initial report on September 15, 1999. However, the report did  
5        not provide any details as to locations of the meter installations or customers  
6        receiving refunds. In May 2000, Mr. Raymond E. Pilapil, Manager of the Water  
7        Department, and I met with Mr. Thomas P. Mathews. During that meeting I ask  
8        Mr. Mathews why Staff had not received any reports about refunds to customers.  
9        Mr. Mathews reported that the Company was experiencing difficulty with their  
10       computer due to Y2K problems. Approximately one year later, I requested the  
11       information again. This time it was reported that they had upgraded their  
12       computers and the information I was requesting was not readily available. They  
13       would check with the manufacturer to see how they could gather the information.  
14       As of this date, I have not received any information from the Company.

15  
16       **Q.     You indicated that the Order required NIUI to establish a meter-reading**  
17       **program, so that NIUI's customers could be consistently billed. In your**  
18       **investigation regarding compliance to the Order, has the Company**  
19       **established a program so that the customer's meters will be read at least**  
20       **every second billing period?**

**Docket No. 01-0491**  
**ICC Staff Exhibit 1.0**

1     A.     Based on Staff's discussion with NIUI's personnel, it was reported that they had a  
2           program in place. However, at the time of Staff's inspection, the Company had  
3           not read meters for approximately 3 billing cycles. Therefore, it appears that the  
4           customers were experiencing bills that had two or more consecutive estimates.

5  
6     **Q.     In the above answer, you indicated that the Company had estimated**  
7           **customers bills two or more consecutive times. In your opinion, does**  
8           **estimating bills two or more consecutive times comply with 83 Ill. Adm.**  
9           **Code Part 280, "Procedures for Gas, Electric, Water, Sanitary Sewer**  
10          **Utilities Governing Eligibility for Service, Deposits, Payment Practices and**  
11          **Discontinuance of Service?"**

12    A.     No. Based on my experience with the Commission, it appears that NIUI is in  
13           violation of 83 Ill. Adm. Code 280.80, "Estimated Bills." Part 280.80 stipulates  
14           that all utilities shall make an actual meter reading at least every second billing  
15           period. Estimates may be used if the utility has taken appropriate and  
16           reasonable measures to read the meters, such as making an appointment with  
17           the customer, scheduling readings other than normal business hours, or  
18           providing postal cards for customer readings.

19  
20    **Q.     Since the Order was issued in Docket No. 97-0608, are you aware of any**

1        **petition by NIUI requesting or the Commission granting NIUI a variance**  
2        **from Part 280.80?**

3        A.     No.

4  
5        **Q.     Have you found other related problems concerning NIUI billing practices?**

6        A.     Yes, it was reported that Mr. Mathews has charged customers a \$300 charge to  
7        attach to the water system. The Commission has neither approved this charge  
8        nor is this charge in NIUI's currently filed tariffs. Charging fees that have not  
9        been approved by the Commission is in violation of Section 9-240 of the Public  
10       Utilities Act (220 ILCS 5/9-240), which states in part:

11                "No public utility shall charge, demand, collect or receive a  
12                greater or less or different compensation for any product, or  
13                commodity furnished or to be furnished, or for any service  
14                rendered or to be rendered, than the rates or other charges  
15                applicable to such product or commodity or service as  
16                specified in its schedules on file and in effect at the time  
17                except as provided in Section 9-104..."  
18  
19

20        **Q.     Have you reviewed the Company's operations?**

21        A.     Yes, I have personally visited and reviewed the Company's operations and  
22        facilities on a number of occasions since 1993.

23  
24        **Q.     Did you inspect NIUI's water facilities in connection with this case?**

1 A. I inspected NIUI's water treatment facilities, valves and hydrants as a follow-up to  
2 the Order in Docket No. 97-0608.

3  
4 **Q. Having inspected the water facilities, were there any other deficiencies**  
5 **found concerning the reliability of service and/or safety related items?**

6 A. Yes, I found the following deficiencies:

7 a) The following hydrants were found to still be in need of repair or replacement:

8 No. 8 – Hydrant does not shut-off after use;

9 No. 4 – Hydrant upper barrel crack; and

10 No. 7 – Hydrant does not operate.

11  
12  
13 **Q. Is item (a) above the same items reported by you in Docket 97-0608, in**  
14 **which the Commission ordered NIUI to replace or repair?**

15 A. Yes, they are.

16  
17 **Q. I am showing you a document marked for identification as ICC Staff Exhibit**  
18 **1.00, Schedule 1.01, and ask you to identify these documents.**

19 A. Schedule 1.01 is a four-page summary of my inspection of the Company's  
20 hydrants.

21  
22 **Q. On Schedule 1.01, it appears that there were other minor discrepancies**

1       **with the hydrants in NIUI's system that you found besides item (a), such as**  
2       **missing hydrant cap chains and hydrants needing painting. Are you**  
3       **recommending that these discrepancies be repaired?**

4       A.     Yes, I am still recommending these discrepancies be repaired. These  
5       discrepancies still exist, as found and reported in Docket No. 97-0608.

6  
7       **Q.     Based on the Order in 97-0608, NIUI was to survey the customers**  
8       **concerning the three options available to them concerning iron removal**  
9       **equipment. Has this been completed?**

10      A.     No. The study concerning the different options available for improving the water  
11      quality in Northern's service area was completed in December, 1999 and revised  
12      in February 2000. However, based on the information I have received from the  
13      Company, it appears that the Company did not provide a survey to the customers  
14      explaining the options and letting them express their vote on improving or not the  
15      quality of water.

16  
17      **Q.     The Order in Docket No. 97-0608 required NIUI to replace 1,770 feet of two**  
18      **(2) inch diameter water main for five years, based on your review of the**  
19      **facilities, has NIUI complied to the Order?**

20      A.     No. NIUI's initial report of September 15, 1999, did not provide any details as to

**Docket No. 01-0491**  
**ICC Staff Exhibit 1.0**

1 contracts, start date of replacing mains, or any costs associated with the project.

2 In the earlier part of 2001, Staff received an inquiry from Representative Jack  
3 Franks' office concerning one of the subdivision's association (Wooded Shores)  
4 served by NIUI. Wooded Shores is trying to make repairs to the roads in the  
5 subdivision. At the first meeting I attended, the association expressed concerns  
6 that Mr. Mathews had not started replacing water mains to comply with the  
7 Order. Failure to install replacement mains was hindering the association  
8 progress to redo the roads. After two meetings with the Association and Mr.  
9 Mathews, in my opinion it appears that Mr. Mathews is trying to switch the  
10 burden of locating underground utilities to the association prior to the Company  
11 starting the project. Therefore, delaying the construction of the water mains.  
12 However, there is a program in place for the locations of the underground  
13 utilities, which is "JULIE". I know of no legitimate reason for the failure to  
14 replace the two-inch diameter water mains as required by the Order in Docket  
15 No. 97-0608.

16  
17 **Q. Since the Commission granted NIUI a rate increase of \$11,121 (22.3%**  
18 **increase) in June 1999, have any events occurred that affects the**  
19 **Company's financial status?**

20 **A.** Yes. On or about late October or early November 1999, NIUI filed for bankruptcy.

1 Based on my understanding, the Company is still in bankruptcy.

2  
3 **Q. Have you completed your investigation into NIUI's operation and financial**  
4 **status concerning this docket?**

5 A. No, Schedule 1.02 is Staff's data request mailed to Mr. Mathews requesting  
6 additional information concerning continuing property records, electric bills,  
7 missing quarterly reports and billing practice. The Company was to respond to  
8 the data requests by August 31, 2001. As of September 14, 2001, Staff had not  
9 received those responses.

10  
11 **Q. Has NIUI established Continuing Property Records as per the Order in**  
12 **Docket No. 97-0608?**

13 A. No. Based on my discussion with Company personnel, it appears that  
14 Continuing Property Records have not been established.

15  
16 **Q. Based on the above reasons, do you have a recommendation to the**  
17 **Commission concerning the status of Northern Illinois Utilities, Inc., owned**  
18 **and operated by Mr. Mathews?**

19 A. Yes, I am recommending to the Commission that Section 4-502 of the PUA be  
20 applied in this instance. Under Section 4-502 (a), the Commission may provide

1 for the acquisition of a small public utility or telecommunications carrier by a  
2 capable public utility or telecommunications carrier, if the Commission, after  
3 notice and an opportunity to be heard, determines one or more of the following:

- 4
- 5 (1) The small public utility or telecommunications carrier is
  - 6 failing to provide safe, adequate, or reliable service;
  - 7 (2) The small public utility or telecommunications carrier no
  - 8 longer possesses sufficient technical, financial, or
  - 9 managerial resources and abilities to provide the service
  - 10 Or services for which its certificate was originally granted;
  - 11 (3) The small public utility or telecommunications carrier has
  - 12 been actually or effectively abandoned by its owners or
  - 13 operators;
  - 14 (4) The small public utility or telecommunications carrier has
  - 15 defaulted on a bond, note, or loan issued or guaranteed by a
  - 16 department, office, commission, board, authority,
  - 17 or other unit of State government;
  - 18 (5) The small public utility or telecommunications carrier has
  - 19 wilfully failed to comply with any provision of this Act, any
  - 20 other provision of State or federal law, or any rule,
  - 21 Regulation, order, or decision of the Commission; or
  - 22 (6) The small public utility or telecommunications carrier has
  - 23 wilfully allowed property owned or controlled by it to be used
  - 24 in violation of this Act, any other provision of State or federal
  - 25 law, or any rule, regulation, order, or decision of the
  - 26 Commission.
- 27

28 Therefore, for the reasons discussed above, it appears that the NIUI does  
29 not meet the requirements stated in provisions (1), (2) and (5) of Section  
30 4-502.

31

32 **Q. If the Commission should order the acquisition of NIUI by a capable public**

1        **utility, what utilities are in the vicinity, which are capable of complying with**  
2        **the order in Docket No. 97-0607 and improving overall service to the**  
3        **customers.**

4        A.     Of the investor-owned utilities that the Commission regulates, it would appear to  
5        be Citizens Utilities Company of Illinois, Consumers Illinois Water Company and  
6        Utilities, Inc.

7  
8  
9        **Q.     Does this conclude your Direct Testimony?**

10      A.     Yes, it does.